

REMARKS

The Restriction Requirement

In response to paragraph 1 of the Restriction Requirement, applicant elects without traverse Group I, claims 1-31.

In response to paragraph 4 of the Restriction Requirement, within Group I, applicant elects Figure 2 with traverse.

Paragraph 4 attempts to restrict the application to one of Figure 2 and Figure 5, or to one or more features of those Figures. Yet the Director has no statutory authority to restrict anything but claims. See 35 USC 121, 37 CFR 1.141, and 37 CFR 1.142.

In particular, restriction requirements find their statutory basis in 35 USC 121 which states that “[i]f two or more independent **and** distinct inventions are **claimed** in one application, the Director may require the application to be restricted to one of the inventions.” (emphasis added).

Applicant respectfully submits that only the claims “define” any invention. Applicant respectfully submits that, because they are not claims, neither the figures of the application nor features of those figures can “define” any invention, and thus there is no statutory requirement or logical basis for the assertion that the figures or their features be “patentably distinct”. Instead, the figures serve to, *inter alia*, meet the requirements of 35 U.S.C. 112.

Reconsideration and withdrawal of the restriction requirement of paragraph 4 is respectfully requested.

PATENT

Serial No. 10/618,995

Attorney Docket No. 1039-002

CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

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Date: 26 Nov 2004



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Reply to Office Action dated 26 October 2004 (3 sheets)

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26 November 2004 Eden Brown
Date Name of Person Making Deposit

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